

recommendations to which objection is made.”).

In this case, Petitioner Bartolo Infante seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state court conviction for aggravated sexual assault and indecency with a child. Respondent Rick Thaler, Director of the Correctional Institutions Division of the Texas Department of Criminal Justice, moved to dismiss the petition as time-barred.¹ The Magistrate Judge noted that Infante’s convictions became final on May 31, 2005, the last day that Petitioner could have filed a petition for a writ of certiorari from the United States Supreme Court. Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Infante’s petition for a writ of habeas corpus was due on May 31, 2006. Infante filed his petition for a writ of habeas corpus on December 17, 2008, after the deadline had expired. Petitioner provided no basis for equitable tolling. A letter from Infante’s counsel in response to a complaint to the State Bar of Texas shows that Petitioner is not entitled to equitable tolling.

The Court has reviewed the Report and Recommendation and finds it to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). Accordingly, the Court ACCEPTS the Magistrate Judge’s recommendations. The Court DENIES Petitioner’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 because it is time-barred. Respondent’s motion to dismiss is GRANTED. A certificate of appealability is also DENIED. This Clerk is directed to close this case.

It is so ORDERED.

¹Resp’t’s Mot. to Dismiss, Dec. 1, 2009 (Docket No. 13).

SIGNED this 28th day of July, 2010.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a horizontal line.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE